

Remarks

1. Summary of the Office Action

Following the notice of panel decision from pre-appeal brief review withdrawing the Examiner's rejections and reopening prosecution, the Office mailed a new non-final office action. In the new office action, the Examiner rejected claims 1, 9, and 18 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Application Pub. No. 2004/0047309 (Barnes), and the Examiner rejected claims 4 and 10 under 35 U.S.C. § 103(a) as being allegedly obvious over Barnes in view of U.S. Patent No. 6,781,980 (Dajer).

In addition, the Examiner allowed claims 11-13, and the Examiner objected to claims 2-3 as depending from a rejected base claim but indicated that claims 2-3 would be allowable if rewritten in independent form including the limitations of their base claim and any intervening claims.

2. Status of the Claims

Pending in this application are claims 1-4, 9-13, and 18, of which claims 1, 9, 11, and 18 are independent and the remainder are dependent.

3. Response to Rejections

As noted above, the Examiner rejected claims 1, 9, and 18 as being allegedly anticipated by Barnes. Applicant submits that this rejection is clearly improper and should be withdrawn, because Barnes does not teach all of the limitations of any of these claims as would be required to establish an anticipation rejection under M.P.E.P. § 2131.

At a minimum, Barnes fails to teach the combination of (i) receiving a digital signal that defines bearer data for each of a plurality of channels, and control information for each of the plurality of channels, (ii) parsing from the control information a power level and a modulation

frequency, the power level being one of a plurality of possible power levels and the modulation frequency being one of a plurality of possible modulation frequencies, and (iii) based on the power level and the modulation frequency, responsively generating an analog signal having a plurality of analog channels that defines the bearer data in the digital signal.

In rejecting the claims, the Examiner relied heavily on paragraph 0023 of Barnes. In fact, the Examiner asserted that paragraph 0023 of Barnes alone teaches every element in the body of Applicant's claims 1 and 9, and the Examiner asserted that paragraph 0023 of Barnes alone teaches every function that claim 18 recites the radio link converter unit is arranged to perform. Applicant respectfully disagrees. Paragraph 0023 of Barnes, like the rest of Barnes, fails to teach Applicant's claimed invention.

As the Examiner indicated in part, paragraph 0023 of Barnes states:

The base station part 100 comprises a transmission unit, TRU 304, a baseband processor 306, an up-converter 308, an amplifier 310, a controller 312 and a register 314. In accordance with the GSM protocol, the digital data is formatted into bursts of 148 bits. The bits are rearranged so as to spread temporally adjacent bits over a larger time frame and then reassembled at the receiving station so as to reduce the effect of lost data. The digital data is processed in the baseband processor 306. The baseband processor 306 sets the transmitted signal level, i.e. the power level, suitable for each carrier and time slot used. After baseband processing, the digital data is modulated onto a radio frequency (RF) carrier and forwarded for wireless transmission to the user terminals.

However, this paragraph of Barnes does not describe (i) receiving a digital signal that defines bearer data for each of a plurality of channels, and control information for each of the plurality of channels, (ii) parsing from the control information a power level and a modulation frequency, the power level being one of a plurality of possible power levels and the modulation frequency being one of a plurality of possible modulation frequencies, and (iii) based on the power level and the modulation frequency, responsively generating an analog signal having a plurality of analog channels that defines the bearer data in the digital signal.

In fact, this paragraph of Barnes does not mention anything about receiving a digital signal that defines both bearer data for each of a plurality of channels and control information for each of the plurality of channels. Further, the paragraph does not mention anything about parsing power level and modulation frequency from the control information or, based on the power level and modulation frequency, generating an analog signal. Rather, the paragraph teaches simply that digital data is transmitted in bursts and that a BTS sets a transmit power level appropriate for each carrier frequency and time slot used, the BTS modulates the digital data onto a carrier and forwards it for transmission.

The act of a BTS determining what transmit power level to use does not amount to receiving a digital signal that defines both bearer data for each of a plurality of channels and control information for each of the plurality of channels or parsing power level (or modulation frequency) from the control information. Moreover, the act of a BTS setting transmit power level and then modulating the data and forwarding the data for transmission also does not amount to receiving a digital signal that defines both bearer data for each of a plurality of channels and control information for each of the plurality of channels, or parsing power level (or modulation frequency) from the control information.

Because Barnes fails to teach the combination of elements recited in any of claims 1, 9, and 18, Barnes does not anticipate these claims. Therefore, claims 1, 9, and 18 are allowable. Further, without conceding the Examiner's other assertions, Applicant submits that dependent claims 2-4 and 10 are allowable for at least the reason that they each depend from an allowable claim. Consequently, Applicant submits that the obviousness rejections of claims 4 and 10 are moot, and Applicant submits that claims 2-3 are allowable without the need to be rewritten in independent form.

4. Comments on Reasons for Allowance

In allowing claims 11-13, the Examiner asserted that Barnes teaches the receiver and parser elements of independent claim 11. Applicant respectfully disagrees, as discussed above. Thus, Applicant submits that claims 11-13 are allowable for the additional reason that Barnes fails to disclose those elements.

5. Conclusion

In view of the foregoing, Applicant submits that, in addition to allowed claims 11-13, the remaining claims 1-4, 9-10, and 18 are allowable. Therefore, Applicant respectfully requests favorable reconsideration and allowance of all of the claims.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

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